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C O N F I D E N T I A L SECTION 01 OF 02 CAIRO 009467

SIPDIS

NSC STAFF FOR SINGH

E.O. 12958: DECL: 12/21/2015

TAGS: PHUM PGOV PREL KDEM EG

SUBJECT: VERDICT ANTICIPATED IN OPPOSITION LEADER AYMAN
NOUR'S TRIAL

REF: A. CAIRO 9349

1B. CAIRO 9209

1C. CAIRO 9053

Classified by Ambassador Francis Ricciardone for reasons 1.4
(b) and (d).

Summary

11. (C) We expect that the December 24 session of opposition leader Ayman Nour's forgery trial will result in a conviction and harsh prison sentence, as Ayman Nour's family and defense team anticipate. Nour, a diabetic, is reportedly maintaining his hunger strike and remains in Torah Prison's infirmary. Nour's family tells us that in addition to high acetone levels in his blood, he is beginning to have (unspecified) kidney problems. We have repeatedly warned our senior GOE contacts that Nour's conviction will set back our bilateral relationship. Should Nour be convicted, we will need to continue to address his case candidly with the Egyptian Government. Our public statement can be no less forthright, but should find words to leave Mubarak a path to maneuver himself out of a serious problem he has created for the advance of Egyptian democracy -- and for his own domestic standing. End summary.

Trial Reaching Climax

12. (C) After an eight hour session on December 12, during which members of Nour's defense team spoke for about six hours, Judge Gom'a adjourned the case to December 24. Defense lawyers and Egyptian journalists covering the case are convinced that the verdict will be issued on the 24th. Members of Nour's defense team told poloff that they believed the decision to read the verdict, which they believe will be a conviction, on western Christmas Eve was deliberately timed to minimize publicity in Washington and other western capitals.

Health Watch

13. (C) Poloff met with Nour's wife, Gameela Ismail, lead defense attorney Amir Salim, and defense attorney Ehab al-Khouli, at their request, on the evening of December 19. The three had just returned from a visit to Ayman Nour at Torah Prison, just south of Cairo. Noting that Nour's diabetes put him at particular risk, they confirmed to poloff that they opposed Nour's decision to go on hunger strike. "I don't think he can make it until December 24," Ismail stated. On December 21, Ismail advised poloff that Nour was now "experiencing kidney problems." We have no independent basis on which to judge whether his medical condition puts him at high or imminent risk of death.

Our Reaction to a Conviction

14. (C) There is every reason to believe that Nour will be convicted on December 24 on charges of forging signatures on the Ghad Party's articles of incorporation. He could receive a jail term of between 3 and 11 years. After the announcement of a verdict, the court has up to 30 days to issue its written judgment. (In the Saad Eddin Ibrahim case, Judge Gom'a took the full 30 days to issue the verdict in writing.) The defense cannot file an appeal without appending the written verdict. The length of time it takes the appeals court to review the verdict is uncertain. Due to the court system's massive backlog, some cases wait years to be heard. In the case of Saad Eddin Ibrahim, the court took four months to review the case and overturn the lower court's verdict.

15. (C) Regardless of any merits to the case (and we can not gainsay them), the arrest, prosecution, and potential conviction of a political opposition leader, who received more than 500,000 votes in the September presidential

elections, represents a step backward for Egypt's democratic process. This inevitably will be a focus of our senior-level official conversations, after the fact, as it has been to the present.

16. (C) We will also need to issue a strong public statement from Washington, underscoring American concerns about the progress of democracy and the rule of law in Egypt in light of this case. Nonetheless, both for the sake of resolution and for Ayman Nour himself, our public remarks should attempt to preserve for the GOE a plausible retreat from its blunder, in the hope that Mubarak may come to recognize it as at least that. We should keep foremost in our words the fact that many Egyptian opinion leaders and ordinary citizens themselves have expressed concern over the appearance of a politically influenced miscarriage of justice in this case. If we also emphasize concern for Nour's serious medical condition, we may lay out a path on which Mubarak later could retreat. Mubarak will want to appear to act for his own noble or compassionate reasons, not on "instructions" or under pressure from the USG.

17. (C) We are coordinating with the Cairo diplomatic missions of G-7 and like-minded states (as the GOE is well aware). The European Commission's Charge d'Affaires told poloff on December 20 that Brussels would also take a dim view of Nour's conviction and would react strongly to a conviction, with a critical statement. The British Ambassador also has conveyed this point repeatedly to senior contacts.

RICCIARDONE